IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

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WRIT PETITION NO : 9468 of 1995

Between:

1 Challa Kondaiah, Alias Gorlakadi Kondaiah W/o. Chinnaiah
resident of B.C. Colony, Nagasamudram Village, Kaligiri

Mandal, Nellore District.
2 Challa Kondaiah S/o. K. Kondaiah
resident of B.C. Colony, Nagasamudram Village,

Kaligiri Mandal, Nellore District.

..... PETITIONERS

AND

1 The Revenue Development Officer, Kavali, Nellore District.
Kavali, Nellore District.
2 The Mandal Revenue Office, Kaligiri, Nellore District.
Kaligiri, Nellore District.
3 The District Collector, Nellore.
Nellore.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or Order or Direction particularly one in the nature of Writ of Mandamus declaring that the respondents have no power to resume the trees or land of the petitioner in survey no.38, 245 at the tankbund of Sitammacheruvu of Nagasamundram Village, Kaligiri Mandal, Nellore District and consequently declare the action of the respondents in interfering with the Patta Trees of the petitioners is illegal, arbitrary and violative of Article 300A, 14 & 21 of the constitution of India Apart from being violative of the principles of natural justice

Counsel for the Petitioner:MR.VENKATA RANGADAS KANURI

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

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ORDER:

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This writ petition has been filed by the petitioners invoking the jurisdiction of this Court under Article 226 of the Constitution of India, to declare that the respondents have no power to resume the trees or land of the petitioners in Survey No.38, 245 at the Tankbund of Sitammacheruvu of Nagasamundram Village,Kaligir Mandal Nellore District and also to declare the action of the respondents in interfering with the patta trees of the petitioners as illegal and arbitrary.

Heard the learned counsel on either side.

It is brought to the notice of this Court by the learned counsel for the petitioners that on an earlier occasion, the petitioners filed a writ petition in W.P.1582 of 1993 challenging the show cause notice dated 31-12-1993 issued by the 1st respondent to show cause as to the resumption of the trees and the said writ petition was disposed of on 4-2-1994 directing the petitioners to file an explanation to the said show cause notice and on filing of such an explanation, the respondents shall consider the same and pass appropriate orders within one week. It is further contended by the learned counsel that pursuant to the orders of this Court, the petitioners filed their explanation on 5-4-1994, but the respondents have not chosen to dispose of the explanation and apart from that, they are trying to conduct auction of the trees by beat of tom-tom in the locality.

Except stating the above factum of tom-tom, there is no other material placed before

this Court to show that the respondents are trying to conduct auction of trees. Therefore, it can be said that it is only an apprehension by the petitioners and apart from that, no material is placed before this Court showing that the petitioners have been assigned to enjoy the usufruct of the mango trees.

According to the petitioners, they filed all the cist receipts ranging from the year 1955 to 1993 and the original certified copy of the tree patta in O.S.No:212 of 1993 on the file of the learned Principal District Munsif, Kalavali, which has been filed for a permanent injunction.

In the facts and circumstances of the case, I am of the considered view that the issue involved in this case, comes under the purview of Civil in nature and as such, this writ petition cannot be entertained by invoking the jurisdiction of this Court under Article 226 of the Constitution of India.

This Writ petition is accordingly dismissed. No costs.

16-09-2004

Stp

Sd/-

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Revenue Development Officer, Kavali, Nellore District.
Kavali, Nellore District.
2 The Mandal Revenue Office, Kaligiri, Nellore District.
Kaligiri, Nellore District.
3 The District Collector, Nellore.
Nellore.

4 2CCs to G.P. for Revenue.

5 2CD copies

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

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